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FILED

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RICHARD W. LUTER  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

8 Attorney for Plaintiff  
9 ROB DELSMAN

E-filing

10 UNITED STATES DISTRICT COURT  
11 NORTHERN DISTRICT OF CALIFORNIA

12 ROB DELSMAN,  
13 Plaintiff,

14 v.

15 GENERAL ELECTRIC COMPANY,  
16 Defendant.

CV 09 Case No.: 2414

SBA

COMPLAINT FOR  
1. DISCRIMINATION AND  
RETALIATION IN  
VIOLATION OF THE ADA;  
2. DISCRIMINATION AND  
RETALIATION IN VIOLATION  
OF CALIFORNIA FEHA

JURY TRIAL DEMANDED

17 Plaintiff, ROB DELSMAN, ("DELSMAN"), complains and alleges as follows:

18 **JURISDICTION**

19  
20 1. This Court has subject-matter jurisdiction over this federal question action  
21 under 28 U.S.C. §1331 and §1343 because it seeks, inter alia, damages under The  
22 Americans with Disabilities Act, of 1990, ("ADA"), as amended. Further,  
23 jurisdiction is proper based upon the complete diversity of the parties.

24 2. Plaintiff has exhausted his prefiling federal and state law remedies, by  
25 filing and serving complaints with the United States EEOC and California DFEH, and  
26 has received Notices of Right to Sue for these claims.

27 3. The Right to Sue Notice from the EEOC on each claim under the ADA

28 COMPLAINT FOR DISCRIMINATION AND RETALIATION IN VIOLATION OF ADA AND CALIF. FEHA

1 alleged below was received by plaintiff on or after March 3, 2009, and this action is  
2 filed within 90 days of said receipt.

3 **VENUE**

4 4. This Court is a proper venue for this action under 28 U.S.C. §1391 because  
5 the claims alleged herein arose within this District, plaintiff resides in this District,  
6 defendant is a foreign corporation incorporated and with its principal offices located  
7 outside of California, and defendant does business in and is found in this District.

8 **THE PARTIES**

9 5. During all times relevant to this Complaint, plaintiff DELSMAN was and  
10 is a United States citizen, residing in Eureka, California.

11 6. During all times relevant, defendant GENERAL ELECTRIC COMPANY  
12 ("GE"), is a New York corporation with its main offices in Schenectady, New York.

13 **EXHAUSTION OF REMEDIES**

14 7. On or about March 21, 2006, plaintiff filed EEOC charge number 550-  
15 2006-00267 against GE, alleging discrimination for failure to provide reasonable  
16 accommodations, harassment by plaintiff's supervisor, and exhaustion of GE's  
17 internal remedies. A copy of EEOC charge No. 550-2006-00267 is attached as  
18 Exhibit A, and incorporated herein.

19 8. EEOC charge No. 550-2006-00267 was cross-filed with the DFEH, which  
20 issued a Right to Sue letter on March 28, 2006, which, by operation of law, was tolled  
21 until the issuance of the EEOC Right to Sue letter, as alleged above in paragraph 3.

22 9. On or about July 5, 2006, plaintiff filed EEOC charge No. 550-2006-  
23 01395 against GE, alleging retaliation in violation of the ADA and the FEHA, and  
24 exhaustion of GE's internal remedies. A copy of EEOC charge No. 550-2006-01395  
25 is attached as Exhibit B, and incorporated herein.

26 10. EEOC charge No. 550-2006-01395 was cross-filed with the DFEH,  
27 which issued a Right to Sue letter on July 12, 2006, which, by operation of law, was

1 tolled until the issuance and receipt of the EEOC Right to Sue letter, as alleged above  
2 in paragraph 3.

3 11. On or about January 25, 2008, plaintiff filed EEOC charge number 550-  
4 2006-01218 against GE, amending and supplementing and alleging continuation of  
5 the discrimination charged in No. 550-2006-00267, the retaliation charged in 550-  
6 2006-01385, the harassment by plaintiff's supervisor, and exhaustion of GE's internal  
7 remedies, which continued through and including February 10, 2007, when plaintiff  
8 was discharged because of illegal retaliation in violation of the ADA and FEHA .  
9 A copy of EEOC charge No. 550-2006-01218 is attached as Exhibit C, and  
10 incorporated herein.

11 12. EEOC charge No. 550-2006-01218 was cross-filed with the DFEH,  
12 which issued a Right to Sue letter, which, by operation of law, was tolled until the  
13 issuance of the EEOC Right to Sue letters, as alleged above in paragraph 3.

#### 14 PLAINTIFF'S DISABILITY

15 13. Prior to 2006, plaintiff was significantly injured serving his country in  
16 the first Gulf War of 1990-1991.

17 14. Following plaintiff's injuries in the Gulf War, over the ensuing 10-15  
18 years, plaintiff rehabilitated himself to being a fully productive working citizen.

19 15. Plaintiff began working for GE on or about 1996.

20 16. By approximately 2005, plaintiff's medical condition and physical  
21 disabilities had become worse, and by 2006, plaintiff required accommodations due  
22 to his medical condition/disability from one or more of the following, or  
23 combinations and/or co-morbidities thereof, which substantially limited one or more  
24 of plaintiff's major life activities and/or caused GE to regard plaintiff as such:

- 25 a. Arthritis;
- 26 b. Chronic pain;
- 27 c. Complex Regional Pain Syndrome;

- d. Sleep disorder;
- e. Hearing Impediments;
- f. Back Impairment;
- g. Neck Impairment;

all of which was known to GE at all times relevant to this action.

17. Plaintiff requested GE for accommodations of these medical conditions, disabilities starting approximately in 2006.

18. GE intentionally, knowingly, maliciously and/or recklessly, with intent to injure plaintiff, discriminated against, harassed and retaliated against plaintiff, failed to provide reasonable accommodations, and failed to participate in a good faith interactive process to determine effective accommodations, in response to plaintiff's requests.

**FIRST CLAIM  
VIOLATION OF ADA**

19. Plaintiff realleges and incorporates par. 1-18 above, and Exhibits A, B and C.

20. Defendant's acts and omissions are a legal cause of discrimination, harassment and retaliation, in violation of the ADA, and are a legal cause of injury and damage to plaintiff.

**SECOND CLAIM  
VIOLATION OF CALIFORNIA FEHA**

21. Plaintiff realleges and incorporates paragraphs 1-20 above.

22. Defendant's acts and omissions as alleged above are a legal cause of discrimination, harassment, and retaliation in violation of the FEHA, and are a legal cause of injury and damage to plaintiff.

WHEREFORE, plaintiff prays for relief as set forth below.

**PRAYER**

Plaintiff prays for Judgment his favor against defendant as follows:

1. For compensatory damages, in excess of \$1,000,000;
2. For punitive damages in an amount in excess of \$1,000,000.00;
3. For all relief available under the ADA and FEHA, including but not limited to, prejudgment interest, litigation costs and attorneys' fees.
4. For any other relief as the Court may find just and reasonable.

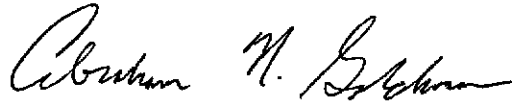
**JURY TRIAL DEMANDED**

Plaintiff demands a jury trial.

Respectfully submitted,

ABRAHAM N. GOLDMAN & ASSOCIATES, LTD.

Dated: May 29, 2009



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Abraham N. Goldman,  
Attorney for Plaintiff  
ROB DELSMAN



EEOC Form 5 (5/01)

**CHARGE OF DISCRIMINATION**

This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.

Charge Presented To:

Agency(ies) Charge No(s):

☐

FEPA

☒

EEOC

550-2006-00267

**California Department Of Fair Employment & Housing**

and EEOC

State or local Agency, if any

Name (Indicate Mr., Ms., Mrs.)

**Mr. Rob Delsman**

Home Phone No. (Incl Area Code)

**(707) 441-9495**

Date of Birth

**07-23-1958**

Street Address

City, State and ZIP Code

**3809 Little Fairfield St., Eureka, CA 95503**

Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)

Name

**GENERAL ELECTRIC CO**

No. Employees, Members

**500 or More**

Phone No. (Include Area Code)

**(916) 339-4521**

Street Address

City, State and ZIP Code

**4608 Roseville Rd, Suite 112, N Highlands, CA 95660**

Name

No. Employees, Members

Phone No. (Include Area Code)

Street Address

City, State and ZIP Code

DISCRIMINATION BASED ON (Check appropriate box(es))

☐

RACE

☐

COLOR

☐

SEX

☐

RELIGION

☐

NATIONAL ORIGIN

☐

RETALIATION

☐

AGE

☒

DISABILITY

☐

OTHER (Specify below.)

DATE(S) DISCRIMINATION TOOK PLACE

Earliest

Latest

**03-09-2006**☐

CONTINUING ACTION

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):

I was hired by Respondent in 1996. My current job title is Automation Specialist. From June 2005 to the present, I have requested reasonable accommodations from my employer. To date, none have been provided. From June 2005 to the present, I have been harassed by my supervisor, Scott Lafleur (Branch Manager). For example, he has unduly criticized my work performance and pressured me to resign. In December 2005, I complained to Peter Cavanaugh (GE Ombudsman) about the discrimination. To date, I have not seen any action taken on my complaint.

Respondent gave no reasons for its actions.

I believe that I have been discriminated against in violation of the Americans with Disabilities Act of 1990, as amended.

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

NOTARY - When necessary for State and Local Agency Requirements

I declare under penalty of perjury that the above is true and correct.

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE  
(month, day, year)

MAR 21 2006

Date

Charging Party Signature





EEOC Form 5 (5/81)

**CHARGE OF DISCRIMINATION**

This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.

Charge Presented To:

Agency(ies) Charge No(s):



FEPA



EEOC

550-2006-01395

**California Department of Fair Employment and Housing**

and EEOC

State or local Agency, if any

Name (Indicate Mr., Ms., Mrs.)

**Mr. Rob Delsman**

Home Phone No. (Ind Area Code)

**(707) 441-9495**

Date of Birth

**07-23-1958**

Street Address

City, State and ZIP Code

**3809 Little Fairfield St., Eureka, CA 95503**

Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)

Name

**GENERAL ELECTRIC CO.**

No. Employees, Members

**500 or More**

Phone No. (Include Area Code)

**(916) 338-4521**

Street Address

City, State and ZIP Code

**4608 Roseville Road, Suite 112, North Highlands, CA 95660**

Name

No. Employees, Members

Phone No. (Include Area Code)

Street Address

City, State and ZIP Code

DISCRIMINATION BASED ON (Check appropriate box(es).)



RACE



COLOR



SEX



RELIGION



NATIONAL ORIGIN



RETALIATION



AGE



DISABILITY



OTHER (Specify below.)

DATE(S) DISCRIMINATION TOOK PLACE

Earliest

Latest

**07-05-2006**

CONTINUING ACTION

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)).

I began working for Respondent in 1996. My current job title is Automation Specialist. On March 9, 2006, I filed EEOC charge (No. 550-2006-00267), against Respondent, alleging denial of reasonable accommodation under ADA. Since filing this EEOC charge, Respondent has retaliated against me in that they have subjected me to different terms and conditions of employment. I live in Eureka, California and Respondent's office is located over 300 miles away, in North Highlands, California. Since March 10, 2006, Respondent changed my job description, adding "regular attendance" in the office as a job requirement. Respondent has instructed me to report to the North Highlands office three days a week. Manager Mr. Scott Lefleur informed me that if I did not quit, he would simply make me commute to the North Highlands office three days a week at my own expense until I did quit. Respondent then informed me that they will no longer pay my travel expenses to work. My direct company phone status has also been altered, preventing customers from directly contacting me and thus denying me business and income. I have also been denied a performance review in accordance with company policy and procedure. I complained about these different terms and conditions of employment to Human Resources Manager Mr. Brad Greene, and Regional Manager Mr. Jim Hibberd. No corrective actions were taken.

Respondent's stated reasons for my new terms and conditions of employment were business necessity.

I believe I have been retaliated against by Respondent for engaging in protected activity.

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

NOTARY -- When necessary for State and Local Agency Requirements

I declare under penalty of perjury that the above is true and correct.

I swear or affirm that I have read the above charge and that I understand the best of my knowledge, information and belief.

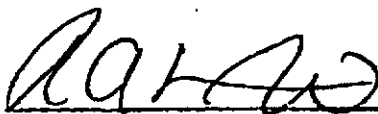
SIGNATURE OF COMPLAINANT

**JUL 05 2006**

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (month, day, year)

**EEOC-SFDO****07/05/06**


Date



Charging Party Signature



EEOC Form 6-11

<b>CHARGE OF DISCRIMINATION</b> <small>This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.</small>		Charge Presented To: <span style="margin-left: 20px;">Agency(ies) Charge No(s):</span> <input type="checkbox"/> FEPA <span style="margin-left: 100px;"><b>550-2006-01218</b></span> <input checked="" type="checkbox"/> EEOC	
<b>California Department Of Fair Employment &amp; Housing</b> and EEOC <small>State or Local Agency, if any</small>			
Name (include title, if any): <b>Mr. Robert A. Delsman</b>		Home Phone (incl. Area Code): <del>330-339-4525</del> <del>330-339-4525</del>	
Street Address: <b>3809 Little Fairfield Street, Eureka, CA 95503</b>		City, State and ZIP Code: <b>Eureka, CA 95503</b>	
Named is the Employer, Labor Organization, Employees of Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than one, list under PARTICULARS below.)			
Name: <b>GENERAL ELECTRIC CORPORATION</b>		No. Employees: Members <span style="margin-left: 20px;">Phone No. (include Area Code):</span> <b>500 or More</b> <span style="margin-left: 20px;"><b>(916) 339-4525</b></span>	
Street Address: <b>4508 Roseville, North Highlands, CA 95660</b>		City, State and ZIP Code: <b>North Highlands, CA 95660</b>	
Name: <b>GE</b>		No. Employees: Members <span style="margin-left: 20px;">Phone No. (include Area Code):</span> <b>500 or More</b> <span style="margin-left: 20px;"><b>(916) 339-4525</b></span>	
Street Address: <b>4508 Roseville, North Highlands, CA 95660</b>		City, State and ZIP Code: <b>North Highlands, CA 95660</b>	
DISCRIMINATION BASED ON (Check appropriate box(es)): <input type="checkbox"/> RACE <input type="checkbox"/> COLOR <input type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input type="checkbox"/> NATIONAL ORIGIN <input checked="" type="checkbox"/> RETALIATION <input type="checkbox"/> AGE <input type="checkbox"/> DISABILITY <input type="checkbox"/> OTHER (Specify below)		DATE(S) DISCRIMINATION TOOK PLACE: Earliest <span style="margin-left: 100px;">Latest</span> <span style="margin-left: 100px;"><b>02-10-2007</b></span> <input type="checkbox"/> CONTINUING ACTION	
THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)): <p>I filed 2 EEOC charges (#550-2006-00287 &amp; #550-2008-01385) alleging disability discrimination (lack of reasonable accommodations, disparate terms and conditions, and harassment) and retaliation. These mistreatments continued until my discharge on or around 02/10/2007.</p> <p>I believe Respondent has retaliated against me in violation of the Americans with Disabilities Act of 1990, as amended.</p>			
I report this charge filed with both the EEOC and the State or Local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.		I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.	
I declare under penalty of perjury that the above is true and correct.		SIGNATURE OF COMPLAINANT <div style="text-align: center;">   <b>RECEIVED</b>  <b>JAN 25 2008</b>  <b>EEOC-SFDO</b> </div>	
Date: <b>1/12/08</b> Charging Party Signature: <b>Robert A. Delsman</b>		SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (month, day, year)	